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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

DEONTE HOLOMAN,

Defendant and Appellant.

A155554

(Alameda County  
Super. Ct. No. 17-CR-023527)

Defendant Deonte Holoman appeals from a judgment entered on his plea of no contest. His counsel has asked this court for an independent review of the record to determine whether there are any arguable issues. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). Holoman was informed of his right to file a supplemental brief and did not do so. We conclude that because he waived his right to appeal under the plea agreement and did not obtain a certificate of probable cause, the appeal must be dismissed.

After sexually molesting two of his minor cousins, Holoman was charged with four felony counts: one count of oral copulation on a child under 14 years, two counts of forcible oral copulation on a child under 14 years, and one count of lewd acts upon a child under 14 years.<sup>1</sup> It was also alleged that Holoman committed offenses against more than one victim.<sup>2</sup>

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<sup>1</sup> The charges were brought under former Penal Code section 288a, subdivisions (c)(1) (oral copulation) and (c)(2)(B) (forcible oral copulation), and Penal Code section 288, subdivision (a) (lewd acts).

<sup>2</sup> The multiple-victim allegations were made under Penal Code section 667.61.

Holoman pleaded no contest to one of the counts of forcible oral copulation and the count of lewd acts. In accordance with the plea agreement, the trial court sentenced him to a total term of 16 years in prison, composed of a term of six years for lewd acts and a consecutive term of 10 years for oral copulation. The remaining counts and the multiple-victims allegations were dismissed.

Holoman initialed a box on the plea form next to the following statement: “I hereby give up my right to appeal from this conviction, including an appeal from the denial of any pretrial motions.” Before taking his plea, the trial court confirmed that Holoman had initialed the boxes and understood “each and every one” of the rights he was waiving. In addition, the court specifically asked, “You also give up your right to appeal from any legal errors in this case?” Holoman responded, “Yes, sir.” Nevertheless, he eventually filed a notice of appeal in propria persona, indicating that the appeal was “based on the sentence or other matters occurring after the plea that do not affect the validity of the plea.” He did not request a certificate of probable cause.

Holoman’s failure to obtain a certificate of probable cause requires us to dismiss the appeal. “[A] defendant who waives the right to appeal as part of a plea agreement must obtain a certificate of probable cause to appeal on any ground covered by the waiver, regardless of whether the claim arose before or after the entry of the plea. Absent such a certificate, the appellate court lacks authority under California Rules of Court, rule 8.304(b) to consider the claim because it is in substance a challenge to the validity of the appellate waiver, and therefore to the validity of the plea.” (*People v. Espinoza* (2018) 22 Cal.App.5th 794, 797.) Here, even if it is otherwise arguable that Holoman’s written waiver of his right to appeal “the conviction” did not extend to sentencing errors, his oral waiver of his “right to appeal from any legal errors in this case” includes any issue we might uncover were we to conduct a *Wende* review of the record. (See *People v. Panizzon* (1996) 13 Cal.4th 68, 80 [waiver of right to appeal “may be manifested either orally or in writing”].)

As *Espinoza* recognized, one consequence of its holding is that “the failure to obtain a certificate of probable cause will sometimes result in the dismissal of

“potentially meritorious appeals” ’ ’ ( *People v. Espinoza*, *supra*, 22 Cal.App.5th at p. 803), but that concern is lessened in *Wende* cases. Here, we have a defendant who broadly waived his right to appeal; proceeded to appeal anyway without requesting a certificate of probable cause; obtained an appointed attorney who could not uncover any error in the proceedings below; and did not independently identify any issues when given the chance to do so. Under these circumstances, we have no trouble concluding that Holoman’s failure to obtain a certificate of probable cause requires us to enforce his appellate waiver against him.

The appeal is dismissed.

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Humes, P.J.

WE CONCUR:

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Banke, J.

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Sanchez, J.